

## **Management Board minutes**

### **Monday 28 April 2014**

#### **Members and other attendees present**

Daniel Benjamin	Director of Corporate Services
Simon Entwisle	Director of Operations
Christopher Graham	Information Commissioner (chair)
Andrew Hind	Non-executive Director
Neil Masom	Non-executive Director
Enid Rowlands	Non-executive Director
David Smith	Deputy Commissioner Data Protection
Graham Smith	Deputy Commissioner Freedom of Information
Ian Watmore	Non-executive Director
Louise Mottershead	(secretariat)

#### **1. Introductions and apologies**

- 1.1. Louise Mottershead was introduced as providing secretariat cover during Peter Bloomfield's absence on annual leave.

#### **2. Declaration of interests**

- 2.1. There were no new declarations of interest.

#### **3. Matters arising from the meeting of 27 January**

- 3.1. The minutes from the previous meeting were agreed.
- 3.2. Outstanding action "ET to consider how best to improve the reporting mechanism to make it more objective by 31 March 2014" would be born in mind for reporting against the 2014/15 plan.
- 3.3. Outstanding action "ET to finalise the paper "Our Approach to Additional Regulatory Functions" and to build in

a 12 month review”: this item had been discussed at the last Information Rights Committee meeting and it had been agreed that changes in presentation were needed. The Commissioner had suggested an alternative structure and headings.

**Action point 1: The completed paper to be circulated after Christopher Graham had provided the amended headings.**

- 3.4. Outstanding action “Daniel Benjamin to finalise the IT Strategy taking account of comments made”: a revised version of the Strategy showing financial flexibility had been submitted to the Ministry of Justice (MOJ). It was understood to be going through the MOJ’s internal approval process and formal clearance was expected shortly.

**Action point 2: Daniel Benjamin to bring the paper, once approved, to ET.**

- 3.5. Outstanding action “Daniel Benjamin to look at the impact of a rise, or fall, in the IT budget”: a document had been submitted to the MoJ and approval was expected shortly.

**Action point 3: As above, Daniel Benjamin to bring the paper, once approved, to ET.**

- 3.6. Outstanding action “Christopher Graham to discuss with colleagues how to widen RemCo attendance with the aim of widening understanding of what it did”: following discussion it was agreed to invite wider Management Board colleagues to the autumn RemCo meeting, the date for which had not yet been finalised.

- 3.7. It was agreed that RemCo should not become an over-arching HR committee for the ICO. Nevertheless, it was right that non-execs should be consulted over major strategic issues.

**Action point 4: Christopher Graham and Enid Rowlands to discuss.**

#### **4. Commissioner’s forward look and the risk register**

- 4.1. The Commissioner highlighted the forthcoming 10<sup>th</sup> anniversary of the “go live” moment for the Freedom of Information Act. It was noted that 2015 also marked the 800<sup>th</sup> anniversary of Magna Carta. After discussion it was agreed that 30 November 2014, being the date the legislation passed through parliament, could be an opportunity for a

second "Turing Lecture" style event linking information rights and freedom.

- 4.2. The issue of the ICO's future funding model was now thought to be critical. If grant in aid was cut further, action on anything other than routine freedom of information enquiries would be impossible. It was important that the ICO was seen to be adequately resourced and thus able to provide proportionate regulation. The Commissioner noted that the meeting with the Deputy Prime Minister's Special Adviser had been postponed until 7 May. The ICO would be approaching all three major parties about the need for primary legislation on funding in the first session of the next parliament.
- 4.3. The Commissioner reported back on his recent meeting with NHS's Tim Kelsey, who was in favour of increased powers for the ICO as part of a confidence building initiative in support of appropriate data sharing in the public service.
- 4.4. It was agreed to review the arguments in favour of the Information Commissioner being designated an Officer of Parliament. It was noted that should the ICO be funded directly by HM Treasury, the Commissioner would report to the Treasury Select Committee; if the position was to be funded directly by the Cabinet Office, then the Commissioner would report to the Public Administration Select Committee.
- 4.5. The Commissioner said he would seek opportunities to make the case for a properly funded ICO, with strengthened powers and appropriate independence, being seen as key to reassuring citizens and consumers about information rights in the digital world. He would share his thinking with colleagues in due course.
- 4.6. Risk Register v2.1 and annexes were discussed. It was felt that the register was incomplete and needed further amendment. Risks arising from the corporate plan should be identified. In the process, it would be useful to flag opportunities as well. It was agreed that the register would be further discussed at Leadership Group on 29 April and finalised by ET in May with a view to being presented to the Audit Committee on 6 June.

**Action point 5: Christopher Graham to ensure discussion at the following day's Leadership Group.**

**Action point 6: Peter Bloomfield to include the Risk Register Agreement on the agenda for the ET meeting on 19 May.**

## **5. Data Protection work: costs**

- 5.1. The paper on the costs of Data Protection work was welcomed. It was noted that the cost reduction amounted to 45% over the period when casework had increased by over 50%.
- 5.2. The substantially lower cost per case for resolution of enquiries by telephone call versus written advice was noted. Enquiry resolution via web chat as an alternative to written advice was suggested.

**Action point 7: Simon Entwisle to investigate IT to see if it would be possible to support web chats.**

## **6. Performance against the ICO Plan 2013-2016**

- 6.1. The satisfactory year-end performance was noted for the Annual Report.

## **7. 2013/14 Year-end financial outcome – flash figures**

- 7.1. It was noted that there could be an £872K cash surplus for 2013/14 part of which was likely to have to be surrendered to the Consolidated Fund. How and why this surplus had arisen was discussed. A more hands on approach to forecasting would be implemented for 2014/15 with a view to better managing any anticipated surplus. It was noted, however, that final analysis of the year-end position had not yet been completed and some adjustment of the excess income final figure was anticipated. The former Finance Manager was meeting the interim Finance Manager to run over the end-year position.

**Action point 8: Daniel Benjamin to satisfy himself as to the final figure and report to Audit Committee**

## **8. Issues reports**

### Operations

- 8.1. It was noted that 2013/14 had been a demanding year with rising case numbers, but staff had more than risen to the challenge.

### Information rights

- 8.2. The Judicial Reviews of the Ministerial Vetoes on the disclosure of HRH the Prince of Wales' correspondence with Ministers and the HS2 Project Assessment Review report was

discussed. The main issue was whether a power of veto in fact existed in the case of the Environmental Information Regulations. The same point was at issue in the Government's appeal to the Supreme Court in the matter of the Prince of Wales correspondence. This had been listed for hearing on 24 and 25 November.

- 8.3. Christopher Graham gave an update on the sentencing in the ICU Investigations case, noting the £69,000 confiscation order which, if unpaid, would result in imprisonment.

#### Corporate Affairs

- 8.4. Daniel Benjamin reported that a paper had been submitted to the MoJ on a revised pay architecture for the ICO. He explained that this had been requested at short notice in order to comply with changes to be implemented with effect from the end of March 2015. As yet, no response from MOJ had been received.

#### Organisational Development

- 8.5. The increasing levels of staff sickness and turnover were noted with concern. The difficulty experienced in filling some vacancies was also noted. This might become more acute as activity in the private sector picked up.

#### IT

- 8.6. After a patchy start, the Northgate contract now appeared to be running more smoothly. The recent system crash resulting from a major power failure was discussed. Daniel Benjamin reported the achievement of resolving the issue for the majority of users by the following morning.

### **9. Executive Team meetings**

- 9.1. The minutes of ET meetings since the last Management Board were presented for information.

### **10. Audit Committee**

- 10.1. The minutes of the last Audit Committee were presented for information.
- 10.2. Grant Thornton's internal audit review was discussed. It was agreed that this would be further reviewed internally and brought back to the next Management Board.

**Action point 9: Peter Bloomfield to include the review on the agenda for the next meeting.**

## **11. Any other urgent business**

- 11.1. Simon Rice had given a presentation on the Heartbleed Bug to the Non-Executives prior to the main meeting. His presentation was discussed, and whether the ICO should be more pro-active in such situations. It was felt Heartbleed could have been an opportunity to build the ICO's brand profile through social media. The ICO seemed to be most prominent when reporting penalties rather than being the authoritative source of practical advice in such situations.